

Issue Resolution Process Explanation

When there is a health and safety matter, it is expected that all parties will communicate, consult and cooperate to discuss the matter [1].

Parties are defined as:

- Person conducting business or undertaking (PCBU), ie the church or his/ her representative (of each business)
 - o The representative must not be a WHSR (Workplace Health and Safety Representative) and must be senior enough and competent enough
- WHSR or representative (If the worker or workers affected by the issue are in a work group) [2]
- Worker or workers or their representative (If the worker or workers affected by the issue are not in a work group) [2] (optional for Unidus Community Centre since most workers are in a work group)

For example, the initial reporting of a health and safety concern may involve (If worker is in a work group):

1. A worker raising the matter with the WHSR
2. WHSR raise the issue with the PCBU or their representative

It is recommended that the outcome of the initial discussions be documented as a record of the matter being raised and discussed [1].

The Workplace Health and Safety Act 2011 (Division 5-Issue resolution) states that issue resolution applies if a matter about workplace health and safety arises at a workplace or from the conduct of a business or undertaking and **the matter is not resolved after discussion between the parties to the issue** [2]. Only where a matter remains unresolved through initial discussions does the matter become an 'issue' and the legal issue resolution process will apply and commence [1].

The parties **must make reasonable efforts to achieve a timely, final and effective resolution of the issue in accordance with the relevant agreed procedure**, or if there is no agreed procedure, the default procedure prescribed under a regulation. A representative of a party to an issue may enter the workplace for the purpose of attending discussions with a view to resolving the issue [2].

The Workplace Health & Safety Regulation (Part2.2-Issue resolution) sets out **minimum requirements** for an agreed procedure (the **default procedure**) for issue resolution at a workplace. This agreed procedure must be set out in writing and be communicated to all workers to whom the agreed procedure applies. Failure in doing so will incur 36 penalty units (1PU = \$121.90 in QLD) which is a fine of \$4388.4 [2].

If a PCBU does not have a written agreed procedure for issue resolution, the default procedure in the WHS regulation must be used. If a PCBU's agreed procedure does not include a step specified in the default procedure in WHS regulation, that step is automatically included in the agreed procedure [1].

- This procedure may be commenced by any party telling the other party/parties:
 - o That there is an issue to be resolved
 - o The nature and scope of the issue
- As soon as parties are told of the issue, all parties must meet or communicate with each other to attempt to resolve the issue.
- The parties must have regard to all relevant matters including the following
 - o the degree and immediacy of risk to workers or other persons affected by the issue;
 - o the number and location of workers and other persons affected by the issue;
 - o the measures (both temporary and permanent) that must be implemented to resolve the issue;
 - o who will be responsible for implementing the resolution measures.
- A party may, in resolving the issue, be assisted or represented by a person nominated by the party.
- **If the issue is resolved**, details of the issue and its resolution must be set out in a written agreement if any party to the issue requests this.
 - o If a written agreement is prepared, all parties to the issue must be satisfied that the agreement reflects the resolution of the issue.
 - o A copy of the written agreement must be provided to—
 - all parties to the issue; and
 - if requested, to the health and safety committee for the workplace.
 - o For the avoidance of doubt, nothing in this procedure prevents a worker from bringing a workplace health and safety issue to the attention of the worker's health and safety representative [3].
- **If the issue is not resolved** after reasonable efforts have been made to achieve an effective resolution of the issue, then:
 - o A party to the issue may ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue.
 - o A request to the regulator does not prevent—
 - a worker from exercising the right to cease work; or
 - a health and safety representative from issuing a provisional improvement notice (PIN) or a direction to cease work.

- o On attending a workplace under this section, an inspector may exercise any of the inspector's compliance powers under the WHS Act in relation to the workplace [2].

Colour code for the Flow Chart:

- Blue box: the main issue resolution process
- Orange outer box: Highlighting the default issue resolution procedure in [3]
- Green box: important info
- Yellow box: Very important initial matter raising procedure for a worker (however, all matters may not be raised by worker)
- Grey box: Definitions of less important info
- White box: Reference list and abbreviations

References:

[1] WHSQ. Issue resolution fact sheet. https://www.worksafe.qld.gov.au/__data/assets/pdf_file/0011/109100/issue-resolution-fact-sheet.pdf

[2] Work Health and Safety Act 2011 (Current as at 22 April 2016), Division 5, Issue resolution

[3] Work Health and Safety Regulation 2011 (Current as at 1 July 2016), Part 2.2, Issue resolution